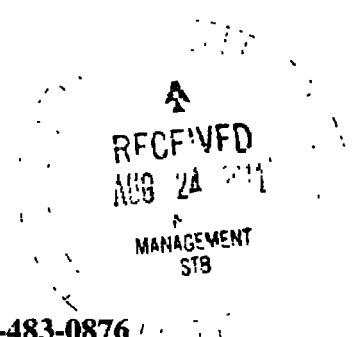


John F. McHugh
Attorney at Law
6 Water Street, Suite 401
New York, NY 10004

Office: 212-483-0875

Fax: 212-483-0876



August 23, 2011

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

230866

Aug 24 2011
Part of
Public Record

Re: New England Transrail, LLC d/b/a Wilmington & Woburn
Terminal Railway, Petition for Construction, Acquisition and
Operation Exemption in Wilmington and Woburn, Mass.
FD 34797

Dear Ms. Brown:

Enclosed please find the original and ten copies of Exhibits A and B which were inadvertently off of the Status Report filed by this petitioner by Federal Express yesterday together with a declaration of service. We apologize for the confusion.

Thank you for your attention to this matter.

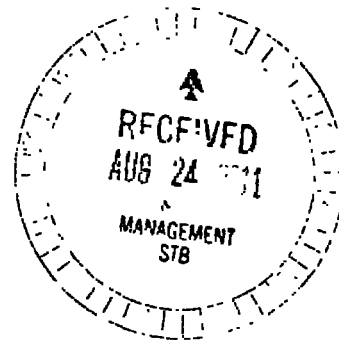
Very truly yours:

John F. McHugh

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 34797

**NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
PETITION FOR CONSTRUCTION, ACQUISITION, AND OPERATION EXEMPTION
IN WILMINGTON AND WOBURN, MASS.**



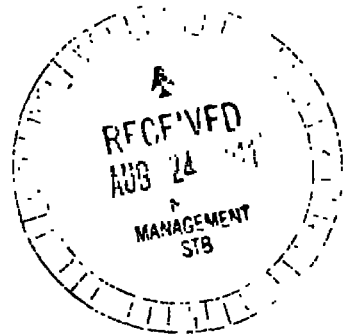
RECEIVED
AUG 24 2011
Part of
Public Record

EXHIBIT A TO STATUS REPORT OF 8/22/11

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 34797

**NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
PETITION FOR CONSTRUCTION, ACQUISITION, AND OPERATION EXEMPTION
IN WILMINGTON AND WOBURN, MASS.**



PETITIONER'S STATUS REPORT

On December 5, 2005, New England Transrail, LLC ("NET") filed its Petition for an Exemption from the application requirements of 49 U.S.C. § 10901 ("Petition") to acquire, construct, and operate as a rail carrier on tracks and land owned by the Olin Chemical Corporation ("Olin Chemical") and located in Wilmington and Woburn, Massachusetts. In a decision dated July 10, 2007 ("July 2007 Decision"), the Board found that, if authorized, NET would become a rail carrier subject to the Board's jurisdiction. The Board also noted that the Environmental Protection Agency ("EPA") and the Board itself would need to complete environmental reviews prior to addressing whether to authorize NET's proposal.

Subsequent to the July 2007 Decision, the Commonwealth of Massachusetts ("Massachusetts") filed a petition for reconsideration, to which NET filed a reply. In August 2007, NET filed supplemental information regarding its proposal, to which Massachusetts and others replied. In October 2008, before the issues raised on reconsideration could be decided, Congress enacted the Clean Railroads Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 (codified at 49 U.S.C. § § 10501(c)(2), 10908-10910) ("CRA"). Because the CRA changed the

Board's jurisdiction over the regulation of solid waste rail transfer facilities, in a decision dated July 23, 2010 ("July 2010 Decision"), the Board directed NET to file a status report no later than August 23, 2010.

In response to the July 2010 Decision, NET hereby informs the Board that it intends to pursue its Petition for an Exemption. NET respectfully requests that the Board complete its environmental review and approve NET's Petition to develop a general transloading facility handling multiple commodities, as described in Sections 2 and 3, below. At this time, NET will not transload solid waste at the facility unless it obtains all legally required approvals to do so in the future.

1. **Olin Chemical Reports that the Remedial Investigation and Feasibility Study is Proceeding According to the EPA Order**

Olin Chemical ("Olin") is responsible for an environmental cleanup of the proposed site of the facility, and has entered into a written settlement agreement with the EPA. Work plans and reports submitted to the EPA can be retrieved from the following website:

http://yosemite.epa.gov/r1/npl_pad.nsf/701b6886f189ceae85256bd20014e93d/1927672eca2d788b852571060051d142!OpenDocument. Olin has provided NET with a report on the status of the cleanup, which is attached hereto as Exhibit A. A summary of Olin's representations follows.

In June 2007, Olin and the EPA executed an Administrative Settlement Agreement and Order ("EPA Order") to conduct a Remedial Investigation and Feasibility Study of the Olin Chemical Superfund Site. The EPA Order included a Statement of Work ("SOW"), which required a Focused Remedial Investigation Report (submitted to EPA October 2007), Remedial Investigation and Feasibility Study Work Plan ("RI/FS Work Plan," submitted to EPA August 2009), and an Interim Response Steps Work Plan (status report submitted to EPA July 2010). The RI/FS Work Plan divides the site into three Operable Units: the property, surface water and

sediment, and groundwater. The RI/FS Work Plan requires the evaluation of property soil, sediment, surface water, and vapor; off-property surface water and sediment; and all on- and off-property groundwater and vapor.

Olin Chemical met with the EPA and Massachusetts Department of Environmental Protection (“MADEP”) on June 29, 2010, to present the results of property surface and subsurface soil testing (addendum to be submitted in August 2010). A qualitative review of the validated data collected from the property determined that the constituents and concentrations detected are similar to previous sampling data, and that the prior Risk Assessment remains valid. Off-property surface water and sediment samples have not been collected due to the need to reach access agreements with affected property owners. Off-property groundwater samples were collected in May 2010 and groundwater validation will begin in August 2010. Some additional groundwater wells have not yet been sampled and several off-property monitoring wells have not been installed due to the need to reach access agreements with surrounding property owners. Further soil, surface water and sediment, and groundwater samples will be collected and tested later in 2010, and the installation of off-property monitoring wells will be completed.

NET has expressly committed that it will comply with all substantive health and safety laws, including regulations of the Commonwealth of Massachusetts and federal environmental laws, such as the Clean Air Act. Petition at 15. Jones V.S. at ¶ 16. As NET has stated in previous filings in this matter, the Board could make NET’s compliance with all applicable substantive health and safety laws a condition of its exemption.

NET requests that the Board complete its environmental review of the site as soon as possible and approve NET’s proposal.

2. NET Plans to Transload Multiple Commodities at the Proposed Facility.

NET plans to develop a general transloading facility for multiple commodities. The commodities to be transloaded at NET's proposed facility will depend on the demands of the markets at that time. Based on prior solicitations, these commodities may include biofuels, dry-goods, salt, sand, gravel, soil, lumber, plastics, steel, paper, woodchips, clay, brick, and, pursuant to the regulatory requirements of the U.S. Department of Transportation, some types of hazardous materials. They would not include solid waste unless and until all necessary additional approvals had been granted.

3. NET Reserves the Right to Seek a Land-Use-Exemption Permit to Operate a Solid Waste Rail Transfer Facility in Accordance with the CRA in the Future.

NET plans to develop the site as a general rail transloading facility upon receiving its license and approval order from the Board. Should NET decide to develop and operate a solid waste rail transfer facility in the future, that facility would be separate, distinct, and in addition to NET's other transloading facilities. To the extent that NET determines that it is feasible to transload solid waste, that portion of NET's activity at the site would be deemed a solid waste rail transfer facility under the CRA, 49 U.S.C. § 10908, and in connection therewith NET would comply fully with the requirements of the CRA. In accordance with the CRA, NET reserves the right to petition the Board for a land-use-exemption permit should the need arise.

Conclusion

For the reasons set forth in the Petition, and for the additional reasons set forth above, NET requests that the Board complete its environmental review and grant the Petition for an Exemption.

Respectfully submitted,

/s/ Kirk K. Van Tine

Kirk K. Van Tine
Heather M. Moss
BAKER BOTTS LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 639-7700

Attorneys for New England Transrail, LLC
Date: August 23, 2010

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 34797

**NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
PETITION FOR CONSTRUCTION, ACQUISITION, AND OPERATION EXEMPTION
IN WILMINGTON AND WOBURN, MASS.**

EXHIBIT B TO STATUS REPORT OF 8/22/11

Olin Chemical Superfund Site
Wilmington, Massachusetts

Administrative Settlement Agreement
And Order on Consent for Remedial
Investigation/Feasibility

USEPA Region I
CERCLA Docket No. 01-2007-0102

August 11, 2011
Status Update

The above referenced Order was executed June 27th 2007 to conduct a Remedial Investigation and Feasibility Study. A detailed Statement of Work (SOW) was included in the Order. Included in the SOW were the following tasks:

- **Perform Interim Response Steps Work Plan**
 - O&M of the Interim Remedial Measures previously put in place at the Site and the maintenance and inspection of the Slurry Wall and Temporary Cap
 - Semi Annual Status Reports-Last Report # 8 Submitted July 2010
 - Implement the off- Property West Ditch pilot extraction test
- **Focused RI Report**
 - Merge Previously compiled environmental Report, results of testing and other relevant information into Operable Unit specific summaries for existing Site conditions and provide an evaluation of the existing data relative to EPA data quality and usability objectives
 - Document submitted to USEPA-October 1, 2007
- **RI/FS Work Plan**
 - The Site was divided into Three Operable Units for the RI/FS. "The RI/FS will proceed as a Site-wide process encompassing all three OUs (i.e., RI/FS work is expected to proceed concurrently and independently on all OUs...)"
 - **Operable Unit 1**-Defined as the approximately 50-acre Olin Property hereafter, the "Olin Property" or "Property", including the former facility area, the established conservation area, the on-property ditch system, the calcium sulfate landfill, and the slurry wall/containment area. *The OU 1 RI/FS will evaluate soil,*

sediment, surface water (including the on-property ditch system), and potential vapor issues (if applicable)."

- **Operable Unit 2**-*"Defined as off-property surface water and sediment areas including, as a minimum, the off Property East Ditch, South Ditch and West Ditch. The OU2 RI/FS will evaluate surface water and sediment issues."*
- **Operable Unit 3**-*"Defined as all on- and off-Property groundwater areas including Maple Meadow Brook aquifer, groundwater beneath the Olin Property and groundwater located south and east of the Olin Property. The OU3 RI/FS will evaluate groundwater and potential vapor issues (if applicable)."*

- Document Submitted to USEPA-August 14, 2009

- **Work Completed on Each Operable Unit**

- **Operable Unit 1-The 'Property'**

- A total of 526 surface soil samples and 890 subsurface soil samples have been collected on the Property
- Analytical results have been validated and provided to USEPA in electronic form for their review and use
- An Addendum to close minor data gaps was submitted to USEPA in July 2010. USEPA has not provided comments on the submittal as of the date of this update.
- Based on Quarterly Inspections, the Temporary Cap on the Slurry Wall is still serviceable
- A contractor has been selected to perform testing on the Slurry Wall to confirm integrity. We submitted a plan to conduct this testing, USEPA provided comments on the plan, we responded to those comments, and USEPA has yet to issue an approval letter for the work.
- The Plant B Pump and Treat system continues to operate effectively.

- **Operable Unit 2-Surface Water and Sediment**

- Surface Water and sediment samples have not been collected due to outstanding Access Agreements
- A toxicity test of south ditch sediments has been conducted. The final report is pending as of the date of this update.

- **Operable Unit 3-Groundwater**

- Two rounds of groundwater sampling have been conducted for nearly all wells. There are a few wells outstanding due to property access issues.
- Completed seismic survey to locate additional off-Property monitoring wells
- A report of the seismic survey was submitted to USEPA in June 2011. The report recommended the locations for two sets of

monitoring wells north of the Property. USEPA has approved this report and the proposed well locations. Access agreements for these locations are currently being negotiated.

- **Future Work**

- **Operable Unit 1-The 'Property'**

- Submit Preliminary RI report to USEPA

- **Operable Unit 2-Surface Water and Sediment**

- Collect one sample from the East Ditch – this work will be completed once access has been granted by the property owner
 - Complete RI/FS for submittal to USEPA

- **Operable Unit 3-Groundwater**

- Complete RI/FS for submittal to USEPA
 - Install two sets of wells to the north of the site – negotiation for access is on-going
 - Collect one additional round of water levels for all wells within OU-3
 - Collect one additional round of groundwater samples for wells on property where access has recently been gained
 - Collect two rounds of groundwater samples for wells where access negotiations are on-going.

- **NET Redevelopment**

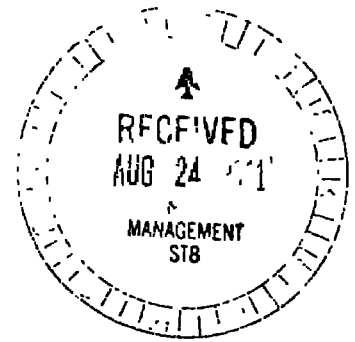
- Based on a qualitative review of the validated data collected from OU-1 in 2011, the constituents and concentrations detected are similar to previous sampling data
 - A qualitative review of the 2011 data complements the Risk Assessment previously conducted for the NET redevelopment
 - The current human health risk assessment indicates that the site is suitable for redevelopment. There are two small discrete locations within the area available for future redevelopment where surface soils have been impacted with polychlorinated biphenyls (PCBs) at concentrations above risk goals. These discrete areas can be remedied easily.
 - An ecological risk assessment was conducted for the OU-1 area. There were no findings that would impair future redevelopment. Certain areas contained within and around the environmental conservation area, which is not available for redevelopment, exhibited potential ecological risks for chromium and bis-(2-ethylhexyl) phthalate.
 - The NET development of building, paving and covering of the site would further reduce any risk of site workers

- Should a remedy be required for OU-2 Surface Water and Sediment, the NET development would not impact this area or the ability to conduct a remedy
- The installation of a paved area over the Slurry Wall area would be beneficial to further reduce infiltration
- An Activity and Use Limitation will be placed on the property to prohibit the use of groundwater
- Should a remedy be required for OU-3 the NET development would not interfere with the implementation
- Should the Plant B Treatment Facility need to remain operational, it could remain in operation with the NET Development in place and is 'carved' out of the NET Development.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 34797

**NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
PETITION FOR CONSTRUCTION, ACQUISITION, AND OPERATION EXEMPTION
IN WILMINGTON AND WOBURN, MASS.**



Sylvia Cruz declares under penalty of perjury that on this 23rd day of August 2011 she mailed a copy of Exhibits A and B of the petitioner's August 22, 2011 Status Report to

Party Of Record: Armbrust, Steven
Csx Transportation Inc.
500 Water Street (J150)
Jacksonville, FL 32202

Party Of Record: Bary, Kathleen M
Concerned Citizens Network
14 Powder House Circle
Wilmington, MA 01887

Party Of Record: Berry, J. Patrick
Baker Botts Llp
1299 Pennsylvania Avenue, Nw
Washington, DC 20004

Party Of Record: Cane, Patrick John
Mercer County Improvement Authority
640 S Broad St
Trenton, NJ 08650

Party Of Record: Carrington, John W.
Hiram Grand Lodge A.F. & A.M., Inc.
98 Talbot Avenue
Dorchester, MA 02124

Party Of Record: Cianciarulo, Robert
United States Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Party Of Record: Cleaver, Susan
109 Coleman Road

RECEIVED
AUG 24 2011
Public Record

Goshen, NY 10924

Party Of Record: Colman, James
Commonwealth Of Massachusetts
One Winter Street
Boston, MA 02108

Party Of Record: Conway, Tim
U.S. Environmental Protection Agency, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Party Of Record: D'agostino, Nicholas C
Jacques Whitford Company, Inc.
24 Albion Road Suite 220
Lincoln, RI 02865

Party Of Record: Demasi, Frank S.
26 Macarthur Road
Wellesley, MA 02482

Party Of Record: Derensis, Paul R.
Deutsch Williams Derensis & Holland, P.C.
One Design Center Place, Suite 600
Boston, MA 02210

Party Of Record: Deutsch, Daniel R.
Deutsch Williams Brooks Derensis & Holland, P.C.
One Design Center Plaza, Suite 600
Boston, MA 02210

Party Of Record: Dilorenzo, Jim
United States Environmental Protection Agency
Region I, 5 Post Office Square, Suite 100
Boston, MA 02109-3912

Party Of Record: Dingle, Michael
Massachusetts Department Of Environmental Protection
One Winter Street
Boston, MA 02108-1598

Party Of Record: Duncanson, Marlinda
City Of Middletown
16 James Street
Middletown, NJ 10940

Party Of Record: Edwards, John V
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510

Party Of Record: Edwards, Esq, John V

Zuckert Scoutt Et Al
888 17Th Street N W Ste 600
Washington, DC 20006-3939

Party Of Record: Ehlert, Dean
Idaho Department Of Environmental Quality Solid Waste Program
Coordinator
1410 N. Hilton
Boise, ID 83706

Party Of Record: Farrell, Thomas E.
1777 Market Tower
10 West Market Street
Indianapolis, IN 46204

Party Of Record: Fiehrer, Dr. Daniel R.
Transportation Preservation Society Of Montana
P.O. Box 1004
Helena, MT 59624

Party Of Record: Fischbein, Bill
Ohio Environmental Protection Agency
P. O. Box 1049
Columbus, OH 43216

Party Of Record: Greenberg, Edward D
Galland Kharasch Greenberg Fellman & Swirsky Pc
1054 Thirty-First Street Nw Canal Square
Washington, DC 20007-4492

Party Of Record: Greenberg, Edward D.
Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C.
Canal Square, 1054 Thirty-First Street, N.W.
Washington, DC 20007-4492

Party Of Record: Gross, Neal
Court Reporter
1323 Rhode Island Ave., Nw
Washington, DC 20005-3701

Party Of Record: Hahs, Don M
Brotherhood Of Locomotive Engineers
1370 Ontario Street
Cleveland, OH 44113

Party Of Record: Havern, Robert A
Commonwealth Of Massachusetts Massachusetts Senate
4Th Middlesex District, Room 109D State House
Boston, MA 02133-1053

Party Of Record: Hemmersbaugh, Paul A
Sidley Austin Llp

1501 K Street Nw
Washington, DC 20005

Party Of Record: Hitchcock, Paul R
Csx Transportation Inc
500 Water Street, J-150
Jacksonville, FL 32202

Party Of Record: Hixon, James A
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-2191

Party Of Record: Hynes, Terence M.
Sidley Austin Llp
1501 K Street Nw
Washington, DC 20005

Party Of Record: Jerison, Jonna
United States Environmental Protection Agency, Region 1
One Congress Street Suite 1100
Boston, MA 02114-2023

Party Of Record: Kennedy, Edward M
United States Senator
2400 John F. Kennedy Federal Office Bldg.
Boston, MA 02203

Party Of Record: Kerry, Honorable John F
United States Senate
Washington, DC 20510

Party Of Record: Lotz, Richard E.
State Of Colorado Natural Resources & Environment Section
1525 Sherman Street, 5Th Floor
Denver, CO 80203

Party Of Record: Macdougall, Gordon P
1025 Connecticut Avenue, Nw, Suite 919
Washington, DC 20036

Party Of Record: Mansilia, Arthur G.
United Tool & Die Co., Inc.
Eames Street
Wilmington, MA 01887

Party Of Record: Markey, Edward J
U.S. House Of Representatives
Suite 101, Five High Street
Medford, MA 02155

Party Of Record: Meaney, Paul J.

Woburn Business Association
P. O. Box 3057
Woburn, MA 01888

Party Of Record: Miceli, Honorable James R.
11 Webber Street
Wilmington, MA 01887

Party Of Record: Miceli, James R
Commonwealth Of Massachusetts
Room 167, State House
Boston, MA 02133-1054

Party Of Record: Miceli, James R
The Commonwealth Of Massachusetts
448 State House
Boston, MA 02133-1054

Party Of Record: Moates, G Paul
Sidley Austin Llp
1501 K Street, N.W.
Washington, DC 20005

Party Of Record: Monroe, David K
Galland, Kharasch, Greenberg, Fellman & Swirsky
1054 Thirty-First Street, Nw, Suite 200
Washington, DC 20007-4429

Party Of Record: Moore, Fred R.
6 Ella Street
Saugus, MA 01906

Party Of Record: Owens, Bill
115 Hazelton Street
Mattapan, MA 02121

Party Of Record: Pardce, William
Commonwealth Of Massachusetts
One Ashburton Place
Boston, MA 02108

Party Of Record: Podgurski, P. Christopher
Podgurski Corp.
8 Springfield Ave
Canton, MA 02021

Party Of Record: Raymond, Linda
Woodburn Neighborhood Association, Inc.
10 North Maple Street
Woburn, MA 01801

Party Of Record: Reich, Mark R

Kopelman And Paige, P.C.
101 Arch Stree, 12Th Floor
Boston, MA 02110-1109

Party Of Record: Richmond, Stephen M.
Beveridge & Diamond Pc
15 Walnut Street, Suite 400
Wellesley, MA 02481

Party Of Record: Riffin, James
1941 Greenspring Drive
Timonium, MD 21093

Party Of Record: Rowe, G. Steven
State Of Maine
6 State House Station
Augusta, ME 04333

Party Of Record: Ruch, Susan P.
Massachusetts Department Of Environmental Protection Northeast
Regional Office
205B Lowell Street
Wilmington, MA 01887

Party Of Record: Sasala, Ii, Stephen R.
Waterbury Regional Chamber
P.O. Box 1469
Waterbury, CT 06721

Party Of Record: Shudtz, Peter J
Csx Corporation
500 Water Street
Jacksonville, FL 32202

Party Of Record: Shudtz, Peter J.
Csx Corporation
1331 Pennsylvania Avenue, Nw, Suite 560
Washington, DC 20004

Party Of Record: Strickland, Jr., Carter H.
Rutgers Environmental Law Clinic
123 Washington Street
Newark, NJ 07102

Party Of Record: Strohmeyer, Eric S.
Cnj Rail Corporation
833 Carnoustie Drive
Bridgewater, NJ 08807

Party Of Record: Swain, Laura
Department Of Environment Protection
One Winter Street

Boston, MA 02108

Party Of Record: Tierney, John F
U.S. House Of Representatives
17 Peabody Square
Peabody, MA 01960

Party Of Record: Van Tine, Kirk K
General Counsel, U.S. Dept. Of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

Party Of Record: Warchot, Louis P
Association Of American Railroads
425 3Rd. Street, S.W., Suite 1000
Washington, DC 20024

Party Of Record: Wight, Mark
Illinois Environmental Protection Agency
P. O. Box 19276
Springfield, IL 62794

Party Of Record: Wilkerson, Dianne
Massachusetts State Senate
State House
Boston, MA 02133-1053

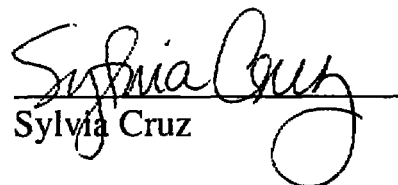
Party Of Record: Williams, Arthur
National Black Agenda Convention. Inc.
P.O. Box 366211
Boston, MA 02136-9998

Party Of Record: Wyche, Nyjah
Health Education And Learning Program For Black Males Health-
University Of Massachusetts, Boston
100 Morrissey Blvd.
Boston, MA 02125

Party Of Record: Zucker, Audrey
United States Environmental Protection Agency Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Member Of Congress: Latourette, Honorable Steven C.
Chairman, Subcmte. On Railroads:Committee On Transportation &
Infrastructure
U.S. House Of Representatives
Washington, DC 20515

Dated, New York, N.Y.
August 23, 2011


Sylvia Cruz